

KADG420004582017

**IN THE COURT OF THE CIVIL JUDGE AND JMFC, HARAPANAHALLI.**

**Present : Shri.Manu Sharma S.P.,
B.A.LAW.LL.M.**

Civil Judge and JMFC, Harapanahalli

Dated this 24th day of March 2026

PCR.No.12/2017

COMPLAINANT/S :- Revanagowda, S/o. Late
Dyamanagouda, Age 52 years, Occ:-
Advocate, R/o Harapanahalli town,
1st ward, Teachers colony,
Harapanahalli Taluk, Davanagere
District.

(Sri. B.R.G.Adv.,)

-Vs.-

ACCUSED

1. Jyothi Neelamma, W/o. Late Eshwarappa, Age 69 years.
2. Jyothi Basappa, S/o Late Puttappa, Age 65 years.
3. Jyothi Ananda, S/o Basappa, Age 32 years, Accused No.1 to 3 R/o Chigatayeri village, Harapanahalli Taluku, Davanagere District.
4. Alavandi Veeranna, S/o Late Shanthaveerappa, Age 65 years, R/o Neelagunda village, Harapanahalli Taluku, Davanagere District.
5. K.B.Anandappa, S/o Boranayaka, Age 50 years, Tahsildar, Ministry of Commerce

and Industries, Vikasa Soudha,
Bengaluru.

6. V.M.Jangadi, S/o Mallarappa, Age 63
years, Retired Revenue Inspector, R/o
House No.1828/A/28, Vidyana Nagara,
B.I.E.T. Road, Anjineya Badavane,
Davanagere-4.

7. Miyajan, S/o Bhashasab, Age 60 years,
retired Village Accountant, R/o
Harapanahalli town, Harapanahalli
Taluku, Davanagere District.

ORDER

Complainant has filed a private complaint against accused,
alleging that accused have committed offences punishable under
Section 191, 192, 196, 209, 219, 441, 463, 464, 474, 471, and
474 of IPC.

2. Brief substance of allegations as per complaint are as here under:-

The allegation made by the complainant against accused, as
per complaint, is that accused no.1, by colluding with accused
no. 2 to 7, got mutated the records of the property into her name
without any basis and also created false sealed In the name of
accused no. 4. The retired revenue officials who are accused no.5
to 7 have colluded with accused no.1 and falsely mutated the
records of the property by misusing their authority. Accused no.1

herein has filed suit in respect of the property as per OS No. 154/2004, and initially in the said suit, present complainant was not made as a party and subsequently when appeal was preferred against the judgment passed in the said suit, as per the direction of appropriate court, complainant and others are impleaded in the said suit and during the trial of the suit, Accused no.5 to 7 were examined as witnesses and they denied that they have falsely created revenue documents with an intention to escape from their criminal liability.

3. In order to prove the case, complainant got himself examined as CW1 in lieu of his own statement and also examined one supporting witness.

4. The following documents are marked on behalf of complainant.

Ex.C.1 : Certified copy of application for sanction to prosecute

Ex.C.2 to 5 Certified copy of witnesses statement
: in O.S.No.154/2004

Ex.C.6 : Certified copy of decree in
O.S.No.154/2004

Ex.C.7 : Certified copy of plaint in
O.S.No.154/2004

Ex.C.8 & 9 Certified copy of Judgment and
: decree in R.A.No.67/2009

Ex.C.10 Certified copy of mutation registers
to 12 :

Ex.C.13 : Certified copy of sale deed

Ex.C.14 RTC
:

Ex.C.15 to Certified copy of written statement
17 :

Ex.C.18 Certified copy of counter claim
:

Ex.C.19 Certified copy of affidavit
:

Ex.C.20 Certified copy of mutation
:

Ex.C.21 to Courier receipts
30 :

5. Based on complaint, sworn statements and documents submitted on record, the following points arise for my consideration:-

1] Whether complainant has made out sufficient grounds to proceed against accused?

2] What Order?

6. Heard arguments and perused records of the case.

7. My findings on the above points are as here under:-

Point No.1:- In the **Negative**

Point No.2:- As per final order for following:-

REASONS

8. Point No.1:- The allegation of the complainant is that accused no.1 falsely got mutated the records of the property into her name by colluding with other accused including revenue officials and created said deed in the name of accused no.4. It is the case of the complainant that civil dispute pertaining to property is pending between complainant and accused. This would indicate that validity of the mutation orders and validity of the sale deed is subject matter of the said suit.

9. Now it is profitable to refer to the decision of Supreme Court of India reported in 2000 (2), SCC 636, in the matter between **G.Sagar Suri and another v. State of U.P. and others AIR 2000 SC 754**, wherein it was held that it is the duty and obligation of the Criminal Court to exercise a great deal of caution. In issuing the process, particularly when

matters are essentially of civil nature. Admittedly, in the present case, civil case is already pending, pertaining to the mutation records and shaded in question.

10. In another decision of **Hon'ble Supreme Court of India reported in 2018 SCC Online SC 2447**, in the matter between **Anand Kumar Mohatta v. State (Govt. of NCT of Delhi)** **The Hon'ble Supreme Court** reprimanded the practice of filing criminal complaint directly in civil disputes when it was dealing with a criminal complaint related to recovery of money. It is also profitable to refer to another decision of **Hon'ble Supreme Court of India reported in 2022 SCC Online SC 200**. In the matter between **Babu Venkatesh V. State of Karnataka** wherein it was held that though civil suits have been filed with regard to the same transactions and though they are contested, By filing written statement, party has chosen to file the complaint under Section **156(3) of CrPC** after the one and a half year from the date of filing of the written statement, with an ulterior motive of harassing the appellants. In the present case also, as

could be seen from the complainant averments, suit in respect of same subject matter is pending ever since 2004, and present complainant is also litigating the said suit, and hence said decision is aptly applicable to the case on hand.

11. So it is clear from the said decisions that criminal action cannot be initiated when civil remedy is available. Therefore, it is to be held that no grounds are made out to proceed against the accused.

12. It is to be noted that in the present case, accused no.5 to 7 are retired government servants. It is also relevant to note that, as ***per Section 197(1) of CrPC***, In the absence of sanction, no court shall take cognizance of the offence alleged to have been committed by the government servant during the performance of his official duty. Here, allegation in the complaint is that accused no.5 to 7 falsely mutated the records in the name of accused no. 1. It is to be noted that mutating the revenue records squarely falls within the official performance of duty of accused no.5 to 7 for revenue officials. So alleged act is closely associated with their office. Here,

complainant has not produced any sanction order issued by the government to prosecute accused no. 5 to 7. Here it is profitable to refer to the decision of **Hon'ble Supreme Court of India in Criminal Appeal No 593/2021** in the matter between **Indra Devi v. State of Rajasthan AIR 2021 SC 3549**, wherein it was held that sanction under Section **197 of CrPC** is required if the alleged act has an excess with official performance of duties. Needless to state that, mutation of records is certainly having nexus with the duties to be performed by the revenue officials. Learned counsel for complainant relied upon the decision of **Hon'ble Supreme Court of India reported in AIR 1979 SC 1841** to contend that in criminal misappropriation cases where misappropriation is alleged against public servant, sanction is not necessary. But case on hand is not a misappropriation case. As already discussed, nature of allegation closely relates to official duties of accused no.5 to 7. Therefore, said decision is not applicable to the case on hand.

13. Another important aspect that is to be considered is that, complainant in the present case not filed affidavit in support of the complaint. So in this regard it is profitable to refer to the decision of **Hon'ble High Court of Karnataka in Criminal No. 531 / 2022** in the matter between **Dr. Ashok V v. State of Karnataka** wherein by referring to the decision of **Hon'ble Supreme Court of India in Priyanka Srivastava V State of U.P reported in 2015(6) SCC 287**, it was held that private complainant without affidavit should not be entertained, as accountability and responsibility of making frivolous statements in the complaint would vanish if they are not shown to by the affidavit. It is clear from the said decision that private complaint not accompanied by affidavit is not maintainable at all. So on this account also, it is to be heard that no grounds are made out to proceed against accused persons. Complainant has produced voluminous documents, including pleadings in original suit and judgments in original suit and regular appeals, with other documents. Component has also produced evidence of DW6 and DW7 in OS No.154/ 2004. As could be seen from the

deposition, they have stated that they have mutated the records based on the preliminary decree passed by the court. Nowhere in their evidence, they have admitted that they have made false entries by colluding with other accused. Although the complainant has produced voluminous documents pertaining to the civil litigation, no prima facie incriminating materials are found in the said documents against the accused persons. So documents produced by the complainant is not at all sufficient to proceed against accused in the present case. No doubt sworn statement of Complainant and one supporting witness is recorded wherein Complainant has reiterated the allegations. But, in view of fact that this complaint has emerged out of civil dispute and civil litigation is also pending pertaining to the subject matter of the complaint, no amount of oral evidence is of no help to the Complainant. Thus, viewed from any angle, no grounds are made up by the complainant to proceed against accused in the present case. Hence, I answer **point No.1 in the Negative.**

14. Point No.2:- For the reasons stated above, I am of the considered opinion that, complaint filed by the complainant is liable to be dismissed in the result, the following :-

ORDER

Private complaint filed by the complainant U/Sec. 200 of Cr.P.C is hereby dismissed.

(Dictated to the Typist directly in the computer and typed by him and corrected by me, and then pronounced in the open court on this **24th** Day of March 2026.)

**(Sri. Manu Sharma S.P.)
Civil Judge and JMFC.,
Harapanahalli.**

ANNEXURE

List of witnesses examined on behalf of Complainant/s:

CW-1 : B.Revanagowada.

CW-2 : G.H.Basavakumar

List of exhibits marked on behalf of Complainant/s::

Ex.C.1 : Certified copy of application for sanction to prosecute

Ex.C.2 to 5 : Certified copy of witnesses statement in O.S.No.154/2004

Ex.C.6 : Certified copy of decree in O.S.No.154/2004

Ex.C.7 : Certified copy of plaint in O.S.No.154/2004

Ex.C.8 & 9 Certified copy of Judgment and decree
: in R.A.No.67/2009

Ex.C.10 Certified copy of mutation registers
to 12 :

Ex.C.13 : Certified copy of sale deed

Ex.C.14 RTC

:

Ex.C.15 to 17 : Certified copy of written statement

Ex.C.18 Certified copy of counter claim

:

Ex.C.19 Certified copy of affidavit

:

Ex.C.20 Certified copy of mutation

:

Ex.C.21 to 30 : Courier receipts

List of witnesses examined on behalf of Accused/s:

NIL

List of exhibits marked on behalf of Accused/s:

Nil

**(Sri. Manu Sharma S.P.)
Civil Judge and JMFC.,
Harapanahalli.**

**(Vide separate order)
Order pronounced in the Open Court
vide Dt.24.03.2026.**

: ORDER :

Private complaint filed by the complainant U/Sec. 200 of Cr.P.C is hereby dismissed.

**Civil Judge and JMFC.,
Harapanahalli.**